

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALAN M. GRAYSON, *et al.*,

Plaintiffs,

- against -

ORDER

08-MC-33 (RRM) (JO)

CHARLES CATHCART, *et al.*,

Defendants.

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MAUSKOPF, United States District Judge.

For the reasons set forth on the record at a hearing held this day, the following constitutes the Court's ruling and order with respect to the pending motions seeking contempt (Docket Entry No. 33) and reconsideration (Docket Entry No. 36), as well as the appeal (Docket Entry No. 45) of Magistrate Judge Orenstein's Report and Recommendation (Docket Entry No. 39).

IT IS HEREBY:

ORDERED, that non-parties Li-Tzu Hsin and First Federal Capital LLC shall comply in full with the subpoenas dated June 30, 2009, issued by counsel for Plaintiffs/judgment creditors Alan M. Grayson and AMG Trust (Docket Entry No. 24). The materials to be produced in response to the subpoena directed to Li-Tzu Hsin shall include any and all materials as described in the subpoena that pertain to the period between January 1, 2000 and today; the materials to be produced in response to the subpoena directed to First Federal Capital LLC shall include any and all materials as described in the subpoena that pertain to the period between the inception of First Federal Capital LLC or 2002, whichever is earlier, and today. And it is

FURTHER ORDERED that Li-Tzu Hsin and First Federal Capital LLC shall produce any and all documents, books, papers, and other materials responsive to the aforementioned subpoenas – including any and all tax documents responsive to the subpoenas – by no later than

12:00 p.m. on December 14, 2009, at the office of Mintz & Gold, LLP, counsel for Plaintiffs/judgment creditors, at 470 Park Avenue South, 10th Floor North, New York, New York 10016. And it is

FURTHER ORDERED that Li-Tzu Hsin and First Federal Capital shall serve on Plaintiffs' counsel and file with the Court, by no later than 12:00 p.m. on December 14, 2009, affidavits certifying their compliance with the subpoenas and this Order. In the event that Li-Tzu Hsin and/or First Capital LLC fail to produce, in full or in part, any material(s) responsive to the aforementioned subpoenas by December 14, 2009 at 12:00 p.m. as directed by this Order, Li-Tzu Hsin and/or First Federal Capital LLC shall so inform the Court by affidavit. Any such affidavit shall describe with particularly those material(s) responsive to the aforementioned subpoenas that were not produced, including 1) a specific description of any and all material(s), 2) any and all identifying information relating to those material(s) including the name(s), address(es) and account number(s) of any bank, brokerage or other financial institution that maintains or maintained, possesses or possessed, and/or created the materials, 3) a specific description of the source(s) from which said material(s) are being sought, and 4) a detailed description of all efforts made to obtain such material(s), including the date(s) on which said efforts began. And it is

FURTHER ORDERED that Plaintiffs' counsel shall file a status report by no later than 12:00 p.m. on December 15, 2009, addressing the status of Li-Tzu Hsin's and First Federal Capital LLC's compliance with this Order and the need, if any, for further Court action, including whether Li-Tzu Hsin and/or First Federal Capital LLC have failed comply in full or in part with the aforementioned subpoenas or this Order, and if so, the extent of such failure(s). If there has been any such failure to comply, the status report shall conspicuously include the subject line "Report of Noncompliance." And it is

FURTHER ORDRED that in the event that said status report contains a Report of Noncompliance, the Court shall hold a hearing on December 16, 2009, at 2:00 p.m. in Courtroom N6F on the Sixth Floor of the North Wing of the United States Courthouse located at 225 Cadman Plaza East, Brooklyn, New York. At said hearing the Court will address, *inter alia*, whether Li-Tzu Hsin and/or First Federal Capital LLC should be held in contempt for their failure(s) to comply with this Order, and/or whether any other sanction(s) shall be imposed. And it is

FURTHER ORDERED that Li-Tzu Hsin, Charles Hsin, First Federal Capital LLC, and all counsel shall attend said hearing. Li-Tzu Hsin, Charles Hsin, and First Federal Capital LLC shall contact their attorney after 12:00 p.m. on December 15, 2009, to ascertain whether the December 16th hearing will take place. Li-Tzu Hsin, Charles Hsin, First Federal Capital LLC, and all counsel shall attend the hearing with all evidence and witnesses necessary to address the issue of contempt. And it is

FURTHER ORDERED that any papers responsive to the aforementioned status report must be filed and served by 10:00 a.m. on December 16, 2009. And it is

FURTHER ORDERED that in the event that the aforementioned status report *does not* contain a Report of Noncompliance, the deposition of First Federal Capital LLC's designated representative shall proceed on December 21, 2009, at 10:00 a.m., in the office of Mintz & Gold, LLP, 470 Park Avenue South, 10th Floor North, New York, New York 10016. The parties shall schedule any further depositions promptly thereafter, and promptly notify this Court of any such schedule, or any issue relating to the scheduling of such further depositions. And it is

FURTHER ORDERED that Li-Tzu Hsin and/or First Federal Capital LLC may seek a protective order addressing any desired limitation(s) on the use of any and all tax information

produced in response to the subpoenas and this Order, provided that any such application be filed by no later than 3:00 p.m. on December 11, 2009, and include a proposed protective order. If a protective order will be sought, Li-Tzu Hsin's and First Federal Capital LLC's counsel shall meet and confer with his adversary in an attempt to reach agreement on the language of the proposed protective order. Plaintiffs' counsel may submit a letter to the Court to address any area(s) of disagreement regarding any proposed protective order. And it is

FURTHER ORDERED that Steven A. Soulios, counsel for Li-Tzu Hsin, Charles Hsin and First Federal Capital LLC, shall provide copies of this Order to each of Li-Tzu Hsin, Charles Hsin, and First Federal Capital LLC, and shall file an affirmation by no later than 5:00 p.m. on December 4, 2009, certifying that Li-Tzu Hsin, Charles Hsin, and First Federal Capital LLC have each received a copy of this Order.

SO ORDERED.

/s/ RRM

Dated: Brooklyn, New York
December 3, 2009

ROSLYNN R. MAUSKOPF
United States District Judge